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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **CRL.REV.P. 416/2020 & CRL.M.A. 17919/2020**

WARIS ANSARI

..... Petitioner

Through: Mr. Viraj R. Datar, Senior Advocate
with Mr. Pradeep Tyagi, Mr. Ridam
Tyagi, Mr. M.L. Yadav, Mr. Saurav
Joon, Advocates.

versus

THE STATE & ORS.

..... Respondents

Through: Mr. Amit Ahlawat, APP for the State
with SI Anil Kumar, P.S. Jamia
Nagar.
Mr. Divya Darshan Sharma,
Advocate for R-2 and R-3 (through
VC).

**CORAM:
HON'BLE MR. JUSTICE AMIT SHARMA**

ORDER

28.02.2024

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1. The present petition under Section 401 read with Section 397/482 of the Cr.P.C. seeks the following prayers:

“(a) Allow the present Crl. Revision against the impugned order dated 21.12.2019 passed by Ms. Madhu Jain, Principal Judge, Family Court, South-East District, Saket Courts, New Delhi in MT. NO. 49/2016 titled as "Ms. Farha & anr. v/s. Mr. Waris Ansari" and set-aside the impugned order dated 21.12.2019, in the interest of justice.

(b) To summon the Trial court record of the case bearing MT. NO. 49/2016 titled as "Ms. Farha & anr. vs. Mr. Waris Ansari" pending in the Court of Ms. Madhu Jain, Principal Judge, Family Court, South-East District, Saket Courts, New Delhi.

(c) Pass any other relief(s), which this Hon'ble Court may deem fit and



proper, under the facts and circumstances of the case, in favour of the Revisionist and against the respondents.”

2. *Vide* order dated 22.11.2018, the learned Principal Judge, South-East, Family Courts passed an order directing the present petitioner to pay an interim maintenance of Rs. 12,500/- per month to each respondent no. 2 and 3 herein from the date of filing of the said petition.
3. The said order was subsequently modified by the impugned order dated 21.12.2019 passed learned Principal Judge, South-East, Family Courts, Saket. It is recorded in the said order that the previous order dated 21.12.2018 was passed by the predecessor Court in the absence of respondent no. 2 herein. It is further recorded in the said order that although there is no provision for recalling/review of the order passed by the predecessor Court, the previous order was modified on account of the fact that learned counsel for the petitioner and respondent therein had no objection with regard to arguments being heard again on the application of the petitioner therein (respondents no. 2 and 3 herein) for grant of interim maintenance.
4. Learned Senior Counsel for the petitioner submits that impugned order dated 21.12.2019 amounts to review of the previous order as there was no application filed by respondent no. 2 and 3 for any enhancement of the maintenance amount. It is further submitted that the learned Principal Judge erred in passing the impugned order while observing in the same that there is no power to review.
5. Learned counsel appearing on behalf of respondent no. 2 and 3 submits that the present impugned order suffers from no infirmity on the ground that the learned counsel for the respondent therein (petitioner herein)



had no objection with regard to the same, in pursuance of which, the order was passed.

6. Be that as it may, with the consent of learned counsel for the petitioner and respondent no. 2 and 3, the order dated 21.12.2019 is hereby set aside.

7. Learned Senior Counsel for the petitioner submits that the latter shall abide by the order dated 22.11.2018, passed by Sh. Sanjay Garg-1, Principal Judge, South-East, Family Courts, Saket, New Delhi and all arrears accruing therefrom shall be cleared within 15 days from today.

8. Respondent no. 2 and 3 are at liberty to move an appropriate application for enhancement of interim maintenance, if circumstances so require. In case, any application will be moved, the learned Family Court shall decide the same in accordance with law after providing due opportunity to learned counsel for the petitioner.

9. With the aforesaid, the present petition is allowed and disposed of accordingly.

10. Pending application (s), if any, also stand disposed of.

11. Order be communicated to learned Family Court for necessary information and compliance.

12. Order be uploaded on the website of this Court *forthwith*.

AMIT SHARMA, J

FEBRUARY 28, 2024/bsr